

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

ANTONIO JUAREZ,

Defendant.

CASE NO. 8:09CR249

TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections (Filing No. 74). See Order on Sentencing Schedule, ¶ 6. The government adopted the PSR. (Filing No. 75.) The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

The Defendant objects, indicating that the Defendant may be safety valve eligible. The issue will be heard at sentencing, and the Defendant has the burden of proof by a preponderance of the evidence.

IT IS ORDERED:

1. The Defendant's objections (Filing No. 74) will be heard at sentencing;
2. Otherwise, the parties are notified that my tentative findings are that the PSR is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary

hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

Dated this 28th day of December, 2009.

BY THE COURT:

s/Laurie Smith Camp
United States District Court